City of Seattle

Gregory J. Nickels, Mayor
Department of Design, Construction and Land Use
D. M. Sugimura, Director

CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE
AND RECOMMENDATION TO THE SUPERINTENDENT OF SEATTLE CITY LIGHT

Application Number: 2205816

Applicant Name: Paul Wozniak for T-Mobile Wireless Inc.

Address of Proposal: 5414 SW Andover Street

SUMMARY OF PROPOSED ACTION

Master Use Permit for future installation of a minor communication utility (T-Mobile). The proposed Minor Communication Utility would consist of 3 panel antennas located within the right-of-way (sidewalk) atop a City Light Utility pole. An associated 18 sq. ft. electrical equipment cabinet to be located on private property within an existing garage has been approved by Council Conditional Use under Project #2108355.

The following Master User Permit components are required:

The following approvals are required:

Siting Recommendation to Superintendent of Seattle City Light

SEPA - Environmental Determination - Chapter 25.05, Seattle Municipal Code (SMC)

SEPA DETERMINATION:

[ ] Exempt [X] DNS [ ] MDNS [ ] EIS

[ ] DNS with conditions

[ ] DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

BACKGROUND INFORMATION

Site and Vicinity Description

The site is a Seattle City Light utility pole located in the SW Andover Street right of way situated between the curb and sidewalk on the north side of the street. The utility pole is located a few feet west of the alley that is midway between 54th and 55th Avenues SW. The area is zoned Single Family 5000. The property that would provide space for the equipment cabinets is a single family residence with a detached two car garage, addressed at 5404 SW Andover St. Views of the garage from the street would be screened by an existing fence in the side yard. Vehicular access to the existing garage is through the 16 ft. wide alley. The City Light utility pole, which is proposed to support the antenna, actually abuts the property known as 3920 55th Av SW, which is west of and across the alley from the property that will support the equipment cabinets.

Proposal Description

The applicant proposes a minor communications utility (T-Mobile) facility consisting of 3 panel (3-sector) antennas to be mounted, within a shield, to a new 54 ft. high wood-laminated utility pole with climbing pegs. The utility pole would be painted brown to resemble the other utility poles in the area. The associated electronic equipment cabinet will be located inside a garage on a nearby, but not abutting, property. The connecting cables to the external antennas will be buried underground and concealed inside the utility pole. The new laminated utility pole will replace the existing utility pole at the same location in the SW Andover Street public right-of-way. The height of the existing utility pole to be replaced is 40 ft. The height of the new laminated utility pole would be 54 ft., including the antenna. A slender lightning rod may extend a few feet above the antenna. The size of the proposed equipment cabinet is approximately 18 sq. ft. and would be placed on a concrete slab in the garage, effectively reducing the garage to a one-car capacity. The equipment for the facility would be accessed via the 16 ft alley from SW Andover Street.

Comments

The supporting equipment cabinet for this project was originally required to obtain a Council Conditional Use Permit, which was approved under Project #2108355. (Ordinance 120928, effective November 1, 2002, revised this requirement to be an Administrative Conditional Use.) This project received numerous comment letters, petitions and e-mails during and after the public comment period. The majority of the respondents opposed the location of the subject minor communication utility and expressed their concerns about the potential environmental health impacts associated with electromagnetic energy, the negative visual impacts associated with the proposal, the lack of public benefit to the community and that the proposed use is not compatible with the character of their neighborhood.

ANALYSIS - SITING RECOMMENDATION TO SUPERINTENDENT OF SEATTLE CITY LIGHT

The Street and Sidewalk Use Chapter of the Seattle Municipal Code allows Class II Special Attachments (minor communication utilities) to be placed on utility poles owned by Seattle City Light that are located on public rights of way. Class II Special Attachments are specifically regulated by SMC Section 15.32.300. This Section allows for minor communication utilities, or other Class II Special Attachments, to extend above the electrical facilities (wires) on top of an existing pole, or the replacement of an existing pole to achieve adequate height for the applicant's purposes. Section 15.32.300 further requires that all costs of such replacements be borne by the communications provider, and that the visual impacts of minor communication utilities and other Class II Special Attachments shall be reduced to a degree acceptable to the Superintendent of City Light.

Where a request for Class II attachment is made, and the proposed location is on a non-arterial street located within a Single Family Zone, the applicant shall apply to DCLU and pay for an attachment siting review and recommendation consistent with the application, fee, notice, timeline and criteria for an Administrative Conditional Use (ACU) permit. The DCLU recommendation shall be advisory to the Superintendent of City Light. The specific ACU criteria can be found in SMC Section 23.57.010, subsection C2. The criteria, which must be satisfied in order for the proposal to receive a positive recommendation from DCLU, are as follows:

a. *The proposal shall not be significantly detrimental to the residential character of the surrounding residentially zoned area, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.*

The proposal includes a laminated wood utility pole to be located in the SW Andover Street right-of-way and associated mechanical equipment to be located within a nearby single family garage. The areas is zoned Single Family 5000 (residential). The height of the utility pole, including the antennas, would be 54 ft and would replace an existing 40 ft. tall utility pole. The antennas would be mounted within a shield and painted to match the color of the proposed laminated wood pole. All conduits (cables) would be concealed within the laminated wood utility pole. The associated equipment has been previously approved by a Council Conditional Use Permit and would be located on a nearby site in a single family garage.

Aspects of the proposal would be detrimental to the residential character of the surrounding single family neighborhood. The associated equipment cabinet, which would be located in a garage, and the conduit, which are generally concealed inside the laminated utility pole, will not be detrimental to the character of the surrounding single family neighborhood. However, the proposed 54 ft. utility pole and cellular antennas will be detrimental to the visual character of the surrounding single family neighborhood, for the following reasons:

1. The proposed laminated utility pole would be significantly taller (14 ft., not including the lighting rod) than the existing utility pole and other utility poles on the same side of the street.

2. The proposed laminated utility pole design has both a shape and overall bulk that is irregular and larger than that of a typical round wood utility pole.

3. The proposed antennas and the antenna shield are atypical of other equipment, including transformers, located in single family zoned public rights-of-way. Specifically, the size and location of the shielded antennas would make them highly visible. This is largely due to the fact that the proposed antenna would be located above the existing utility lines and would be 14 ft. taller than the existing utility pole. Furthermore, the shape of the antenna shield is not proposed to match the shape of the pole.

As proposed, the minor communications utility will constitute a visual intrusion that conflicts with the existing residential character of the surrounding neighborhood. The visual impacts that would be created by the proposed minor communication utility cannot be fully mitigated by simply painting the antennas to match the exterior brown color of the laminated wood utility pole. Even considering the laminated wood pole design (which is larger to internally conceal the conduits), the proposed minor communications utility would be visually obtrusive and would, therefore, be detrimental to the residential streetscape and character of this neighborhood**.**

In addition, there has been no specific information provided by the applicant clearly demonstrating that this proposed design and location is the least intrusive location consistent with effectively providing service, whether in the public right of way or on private property.

It is also interesting to note that the property which would be most impacted by the presence of the proposed facility is physically closest to the utility pole yet does not appear to be a party to the proposal as the supporting equipment is not proposed to be on the site closest to the utility pole but on a site which is across the alley.

b. The visual impacts that are addressed in Section 23.57.016 shall be mitigated to the greatest extent practicable.

The only provision contained with SMC Section 23.57.016 that applies to the proposal is subsection J. However, even that subsection applies to freestanding transmission towers. Technically, utility poles are not freestanding transmission towers. However, the similarities of the two warrant consideration of subsection J, which reads as follows:

> *Freestanding transmission towers shall minimize external projections from the support structure to reduce visual impacts and to the extent feasible shall integrate antennas in a screening structure with the same dimensions as external dimensions of the support structure, or shall mount antennas with as little projection from the structure as feasible. External conduits, climbing structures, fittings, and other projections from the external face of the support structure shall be minimized to the extent feasible.*

The applicant has attempted to demonstrate compliance with Section 23.57.016 by proposing the installation of a laminated wood pole. The laminated wood pole has an interior cavity designed to conceal electrical cable conduits to run through it. The area of the laminated wood pole is approx.18" X 20".The applicant has also proposed to paint the utility pole and the antennas the same color in an attempt to conceal the proposed minor communication utility. The antenna and screening is proposed to have a round shape with a diameter somewhat larger than the width of the rectangular pole. While this design attempts to integrate the antenna with the laminated pole, it is not clear that this design accomplishes this to the fullest extent feasible.

c. Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:

i. the antenna is at least one hundred feet (100') from a MIO boundary; and
ii. the antenna is substantially screened from the surrounding neighborhood's view.

The proposed site is not located within a Major Institution Overlay; therefore, this provision is not applicable.

d. If the minor communication utility is proposed to exceed the permitted height of the zone, the applicant shall demonstrate the following: (i) The requested height is the minimum necessary for the effective functioning of the minor communication utility, and (ii) Construction of a network of minor communication utilities that consists of a greater number of smaller less obtrusive utilities is not technically feasible.

The proposed antennas will be on a laminated wood utility pole. The proposed minor communication facility would be 54 feet high and exceeds the 30 feet height limit of this single family zone. However, at 54 feet height the proposed laminated wood utility pole would likely cause some view blockage and shadow impacts in the area because of the location in the right of way.

Due to the operational characteristics of the facility proposed, a clear line of site from the antennas in the system throughout the intended coverage area is necessary to ensure the quality of the transmission of the digital system. The strict application of the standards would not preclude the applicant from providing wireless services for the intended coverage area, which includes Alki and Mee Kwa Mooks Neighborhoods. According to the document submitted by the applicant, the site was chosen because its elevation and location are uniquely suited to serve the adjoining residential and commercial areas. The requested height increase appears to be more than the minimum necessary for the effective functioning of the minor communication utility. There appear to be commercial properties with sufficient elevation to provide the coverage needed to meet the service objectives in at least the nearby neighborhood commercial zone. The applicant has not presented a convincing argument that construction of a network of minor communication utilities that consists of a greater number of smaller less obtrusive utilities is not technically feasible.

e. If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.

According to the information received by DCLU, the applicant proposed coverage area is the Mee Kwa Mooks area. The service need includes areas covering and bordered by SW Andover Street to the north, 54th Avenue SW and Alki Community to the north. The terrain, foliage, nearby structures and distance between other Wireless Communication facilities influenced the applicants decision to try to locate the proposed minor communication utility on SW Andover Street the south end of the 16 ft wide alley. This intended coverage area has a significant terrain drop to the west. Although, the new Seattle City Light laminated utility pole on which the minor communication utility is proposed is not by definition a new freestanding transmission tower, the applicant has not demonstrated that it is not technically feasible for the proposed facility to be sited on another utility pole in the nearby commercial corridor along California Avenue SW and SW Andover Street in a manner that meets the applicable development standards. The location of proposed minor communication on an alternative site or sites in a commercial zone, including construction of a network that consists of a greater number of smaller less obtrusive utilities, should be further explored by the applicant.

The proposed location of the electronic cabinet equipment in the portion of the private garage property is an adequate mitigation for the associated electronic cabinet equipment which has already been approved under a separate permit (MUP 2108355). However, without adequate natural vegetation, such as tall deciduous and coniferous trees which would screen the laminated utility pole and antennas, painting to match the exterior color of the utility pole will not provide adequate mitigation to the height, bulk and visual impacts in this predominantly single family zone.

SITING RECOMMENDATION TO SUPERINTENDENT OF SEATTLE CITY LIGHT

Based on the above analysis the Director of the Department of Design, Construction and Land Use recommends to the Superintendent of Seattle City Light to **deny** the application to install a minor communication utility on Seattle City Light pole in the public right-of-way in a residential zone.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant and dated September 8, 2002. Information in the checklist was supplemented by the other materials. The information in the checklist, supplemental information (including a letter from the Seattle-King County Department of Health), and the

experience of the lead agency with the review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665) states, in part, "*where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation*" subject to some limitations. Thus, the mitigation that may be required pursuant to SEPA authority is limited. A discussion of likely adverse impacts and how they may be appropriately mitigated follows below.

Short-term Impacts

The following temporary or construction-related impacts are expected: decreased air quality due to suspended particulates from building activities and hydrocarbon emissions from construction vehicles and equipment; increased traffic and demand for parking from construction equipment and personnel; increased noise; consumption of renewable and non-renewable resources. Due to the temporary nature and limited scope of these impacts, they are not considered significant pursuant to SMC 25.05.794 and no mitigation is warranted.

Long-term Impacts

Long-term or use-related impacts are also anticipated, as a result of approval of this proposal including: increased traffic in the area and increased demand for parking due to maintenance of the facility; and increased demand for public services and utilities. These impacts are minor in scope and do not warrant additional conditioning pursuant to SEPA policies.

Land Use

The Seattle Land Use Code and the Street Use Code specifically contemplate and regulate the location of minor communication facilities. The administrative conditional use criteria found in SMC 23.57 adequately mitigates potential adverse impacts of siting telecommunication antennas where they could be permitted in Single Family Zones whether a proposal requires the ACU for location on private property or requires a siting review and recommendation to the Superintendent of City Light. Therefore, the proposal does not warrant conditioning pursuant to the SEPA Land Use Policy 25.05.675 J.

Electro-magnetic Radiation (EMR)

The City of Seattle, in conjunction with Seattle King County Department of Public Health, has determined that Personal Communication Systems (PCS) operate at frequencies far below the Maximum Permissible Exposure standards established by the Federal Communications Commission (FCC) and therefore, pose no threat to public health. Additionally, the FCC has pre-empted State and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions.

Summary

In conclusion, while there may be several adverse effects on the environment resulting from the proposed development, they would be minor in scope and would be appropriately regulated by existing codes and ordinances. No further conditioning is warranted.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).

[ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

CONDITIONS – SEPA

None.

Signature: (signature on file) Date: July 17, 2003
Onum Esonu, Land Use Resource & Public Resource Center, Supervisor
City of Seattle Department of Design, Construction and Land Use

OAE:rgc
I:\ESONU\DOC\telecommunications\CU.2205816.doc